

SUMMARY REPORT OF INVESTIGATION**I. EXECUTIVE SUMMARY**

Date of Incident:	January 31, 2016
Time of Incident:	Approximately 4:30 P.M.
Location of Incident:	XXXX Block of South Independence
Date of COPA Notification:	January 31, 2016
Time of COPA Notification:	10:04 P.M.

On January 31, 2016, around 4:30 P.M., Officer A responded to a call of a battery in progress at XXXX South Independence. According to the 911 caller, an African American male, wearing a tan jacket, was hitting an African American female dressed in black. Upon arrival to the scene, responding officers observed complainant Subject 1, an African American male, escorting Civilian 1, an African American female. Subject 1, who was dressed in a tan jacket, appeared to be forcing his darkly-dressed companion to walk along. Considering 1) that Subject 1 and Civilian 1 matched the description provided by the 911 caller; 2) that Subject 1 and Civilian 1 were in the location provided by the 911 caller; and, 3) Subject 1's unusual actions with Civilian 1, Officer A decided to investigate the situation. When Officer A inquired if Subject 1 and Civilian 1 were okay, Subject 1 stated that they were fine, but would not allow Civilian 1 to respond. Subject 1 then began to move away from the responding officers, apparently hiding something in his pocket, while using Civilian 1 to shield his actions.

Given the nature of the 911 call that brought Officer A to the scene, Officer A became concerned for the safety of Civilian 1. At this point, Subject 1 was handcuffed and separated from Civilian 1. Once away from Subject 1, Civilian 1 stated that Subject 1 had been physical with her, but that she was unwilling to press charges. Civilian 1 also stated that she had been taking PCP with Subject 1, prompting Officer A to call for an ambulance. When asked, Subject 1 also admitted to getting high on PCP with Civilian 1. After running a name check on Subject 1, Officer A released Subject 1, providing Subject 1 with an investigatory stop receipt. Later in the evening, Subject 1 traveled to Hospital A, complaining that his wrists hurt. A Chicago Police Sergeant and Evidence Technician visited Subject 1 at the hospital, where photos were taken of Subject 1. These photos show very light marking on Subject 1's wrists. On February 3, 2016, Subject 1 came in to IPRA to report his involvement in the incident. The following investigation was commenced based on his allegations.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A; Star #XXXX; Employee #XXXXXX; 11 Years on Force; Field Training Officer; Assigned to District XXX; DOB: XXXXXXXX; Male Hispanic
Subject #1:	Subject 1; DOB: XXXXXXXX; Male Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	1. It is alleged that on January 31, 2016, at approximately 4:30 P.M., in the vicinity of XXXX South Independence, Officer A grabbed Subject 1 without justification and handcuffed him, in violation of Rule 2 and Rule 6; and,	1. Unfounded
	2. It is alleged that on January 31, 2016, at approximately 4:30 P.M., in the vicinity of XXXX South Independence, Officer A pushed up on Subject 1's handcuffs, in violation of Rule 8.	2. Exonerated

IV. APPLICABLE RULES AND LAW

Rules

- 1. Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
 - 2. Rule 6:** Disobedience of an order or directive, whether written or oral.
 - 3. Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
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General Orders**1. General Order G03-02, “Use of Force Guidelines,” Effective 01 October 2002-15 October 2017.****III. DEPARTMENT POLICY**

[...]

1. Department members will use an amount of force reasonably necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury.
2. As set forth by the United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), the central inquiry in every use of force is whether the amount of force used by the officer was objectively reasonable in light of the particular circumstances faced by the officer.

2. General Order G03-02-01, “The Use of Force Model,” Effective 16 May 2012-14 October 2017**II. DEPARTMENT POLICY**

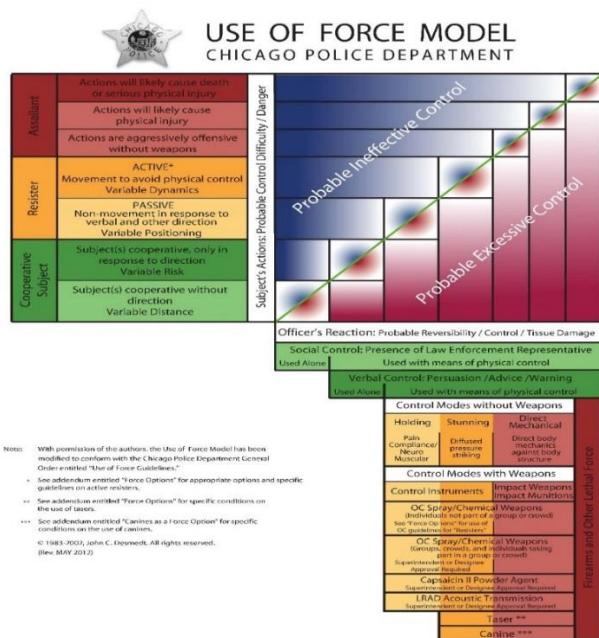
The Department utilizes a Use of Force Model to provide guidance on the appropriate amount of force to be used to effect a lawful purpose. The Use of Force Model employs the progressive and reasonable escalation and de-escalation of member-applied force in proportional response to the actions and level of resistance offered by a subject. Such response may progress from the member’s actual presence at the scene to the application of deadly force.

[...]

- C. When force is applied, a member will escalate or de-escalate to the amount of force which is reasonably necessary to overcome the subject’s actions.

III. USE OF FORCE MODEL

3. The Use of Force Model is a graphic representation of the guidelines for the appropriate use of force in relation to the actions of a subject.



Special Orders

1. Special Order S04-13-09, "Investigatory Stop System," Effective 01 January 2016-22 March 2016.

II. DEFINITIONS

A. [...] An Investigatory Stop is not a voluntary contact. A voluntary contact is a consensual encounter between an officer and a person during which the person must feel free to leave the officer's presence. An officer may approach any person at any time for any reason on any basis. However, absent reasonable suspicion or probable cause, that person must be able to walk away at any time. An officer's ability to articulate that no factors existed that would make a reasonable person perceive they were not free to leave is important.

IV. ILLINOIS STATE LAW

A. 725 ILCS 5/107-14 delineates the authority for conducting an Investigatory Stop. The statute reads as follows:

Temporary questioning without arrest. A peace officer, after having identified himself as a peace officer, may stop any person in a public place for a reasonable period of time when the officer reasonably infers from the circumstances that the person is committing, is about to commit or has committed an offense as defined in Section 102-15 of this Code, and may demand the name and address of the person and an explanation of their actions. Such detention and temporary questioning will be conducted in the vicinity of where the person was stopped.

V. INVESTIGATION

In order to establish whether the actions allegedly taken by Officer A on January 31, 2016 were violative of Chicago Police policy, a series of evidentiary steps were taken by the Independent Police Review Authority (IPRA) —now the Civilian Office of Police Accountability (COPA) — investigators.¹ These steps are detailed as follows.

a. Interviews

1. Chicago Police Interview of Subject 1

On January 31, 2016, Sergeant A traveled to Hospital A, where he met with Subject 1. During an interview with Sergeant A, Subject 1 stated that he had been getting high on PCP with his girlfriend, during which time an officer grabbed him and handcuffed him for no reason. While Subject 1 was in handcuffs, the officer pulled up on the cuffs, causing Subject 1 pain in his right hand. After being released, Subject 1 sought medical treatment at Hospital A.²

2. IPRA Interview of Subject 1

On February 3, 2016, complainant Subject 1 came into the offices of the Independent Police Review Authority to provide an account of his January 31, 2016 interaction with members of the Chicago Police Department. On that date, Subject 1 and a female individual, Civilian 1, were interacting in the area of 1200 South Independence. According to Subject 1, he had just met Civilian 1, and had not previously encountered her. While the two were outside, three Chicago Police vehicles arrived on scene. Several officers exited the vehicles, one with a taser drawn and two others with handguns drawn. In reaction to this development, Subject 1 turned away from the officers, preventing Subject 1 from seeing the officers. The officers instructed Subject 1 to remove his hands from his pockets, at which point Subject 1 inquired as to what was happening. In response, the officers informed Subject 1 that they were responding to a call of “someone beatin’ on a female,” and noted that Subject 1 fit the suspect’s description.

Upon being asked for identification, Subject 1 provided the officers with his wallet and stated that he was not the man in question. Subject 1 was then handcuffed by a white male officer and placed against a squad car, prompting Subject 1 to move about and look behind him. As this happened, the handcuffing officers pushed Subject 1’s hands upward, then instructed Subject 1 to “just be cool.” During the course of the stop, officers asked Subject 1 whether he was “high off somethin’,” to which he responded, “yeah we high.” When asked, Subject 1 clarified that he and Civilian 1 had been high on PCP. After Civilian 1 stated that Subject 1 was not abusing her, officers released Subject 1 and allowed him to leave the scene. Civilian 1 was transported from the scene in an ambulance, but Subject 1 did not see her with injuries requiring medical care.³

¹ On September 15, 2017, COPA replaced IPRA as the civilian oversight agency of the Chicago Police Department. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendations set forth herein are the recommendations of COPA.

² Attachment 28

³ Attachment 27

b. Digital Evidence

While at Hospital A, a Chicago Police Department Evidence Technician was called to photograph Subject 1. These photographs depict Subject 1's hands and wrists, which display a slight dark discoloration. Due to the placing of these markings on Subject 1's wrists, it is possible that the marks were caused during Subject 1's handcuffing. No bruising, scabbing, or bleeding can be seen in any of the photographs.⁴



Figure 1: Photograph of Subject 1's right hand, taken at Hospital A



Figure 2: Redacted Photograph of Subject 1's left hand, taken at Hospital A

⁴ Attachment 30

c. Physical Evidence

City of Chicago Fire Department **medical records for Civilian 1**, dated January 31, 2016. According to this report, EMT reported to XXXX South Independence, where they found Civilian 1 standing with CPD officers. The officers stated that Civilian 1 had been using PCP, during which time she became involved in a physical altercation. Once inside the ambulance, Civilian 1 stated that she was not in an altercation, but she did admit to having used PCP.⁵

Medical Records for Subject 1 were obtained from Hospital A, relating to Subject 1's February 1, 2016 hospital visit. In these records, several "Active Problems" are listed as pertaining to Subject 1, including [mental health information redacted], PCP delusional disorder, knee pain, and hand injury. Lab results registered Subject 1 as testing positive for benzodiazepines and cannabinoids.⁶

A second set of Medical Records for Subject 1 was obtained from Hospital A, relating to Subject 1's February 1, 2016 hospital visit. In these records, Subject 1 is recorded as complaining of how tightly police handcuffed him. As a result of this handcuffing, Subject 1 indicated that he was experiencing numbness and tingling in his right hand. Subject 1 was diagnosed with wrist injury, no sign of fracture.⁷

d. Documentary Evidence

An **Investigatory Stop Report, ISRXXXXXXX**, was generated in relation to the January 31, 2016 incident. From the report narrative, Officer A provides an account of his interaction with Subject 1. According to Officer A, officers received a call of a battery in progress at XXXX South Independence, involving an African-American male in a tan jacket hitting an African-American female in a black jacket. Upon arrival at the scene, officers observed Subject 1, wearing a tan jacket, forcefully escorting Civilian 1, dressed in black. Officer A inquired as to whether Civilian 1 and Subject 1 were okay; while Subject 1 responded that they were fine, Subject 1 would not let Civilian 1 respond. Concerned for the safety of the female, officers exited their vehicle and approached the individuals. As the officers walked toward Subject 1, Subject 1 appeared to hide something in his jacket pocket, using Civilian 1 as a visual shield. Considering the nature of the call, Officer A handcuffed Subject 1 and conducted a protective patdown.

During the course of the stop, Subject 1 stated that he and Civilian 1 "just got done smoking PCP together." In talking with Civilian 1, Officer A found Civilian 1 to be in a state of inebriation, precluding her from communicating verbally. Civilian 1 was able to inform Officer A that she was high on PCP, and that she was in need of an ambulance. While Civilian 1 also stated that Subject 1 had struck her, she was unwilling to press charges. After running a name check on Subject 1, Officer A released Subject 1.⁸

⁵ Attachment 24

⁶ Attachment 10

⁷ Attachment 31

⁸ Attachment 11, 12

INVESTIGATORY STOP RECEIPT

You were the subject of an Investigatory Stop by the Chicago Police Department.

Officer _____	Officer A (Print) Name	Star No _____ XXXX
Officer _____	(Print) Name	Star No _____

Reason(s) for the Stop (Check all that apply).

- ACTIONS INDICATIVE OF ENGAGING IN DRUG TRANSACTION
- FITS DESCRIPTION FROM FLASH MESSAGE
- FITS DESCRIPTION OF AN OFFENDER AS DESCRIBED BY VICTIM OR WITNESS
- ACTIONS INDICATIVE OF "CASING" VICTIM OR LOCATION
- PROXIMITY TO THE REPORTED CRIME LOCATION
- GANG/NARCOTIC RELATED ENFORCEMENT
- OTHER (Specify) _____

CPD-11-912 (1/16)

Figure 3: Redacted Investigatory Stop Receipt provided to IPRA by Subject 1

Attendance and Assignment records for District 10, January 31, 2016 show Officer A as assigned to Beat XXXX, along with partners Officer B and Officer C.⁹

Chicago Police Department **Event Query for Event #XXXXXXXX** shows a call of a battery in progress at XXXX South Independence, taking place January 31, 2016 at 4:24 P.M. Beat XXXX is recorded as being dispatched to the scene, after which time an EMS is requested. A name check is then run on Subject 1.¹⁰

Chicago Police Department **Event Query for Event #XXXXXXXX** shows a call made by Subject 1 on January 31, 2016 at 7:43 P.M. In this call, Subject 1 indicates that an officer stopped him, cuffed him, and injured his hand. According to Subject 1, the officer had no reason to stop him, nor was Subject 1 taken to the police station. Subject 1 asks that a sergeant meet him at Hospital A.¹¹

⁹ Attachment 13

¹⁰ Attachment 17

¹¹ Attachment 19

VI. ANALYSIS

From the interview of complainant Subject 1, two allegations arose regarding the conduct of Officer A on January 31, 2016. COPA's recommended finding on these allegations follows, allowing with COPA's basis for reaching these findings.¹²

Allegation #1: **It is alleged that on January 31, 2016, at approximately 4:30 P.M., in the vicinity of XXXX South Independence, Officer A grabbed Subject 1 without justification and handcuffed him.**

With regard to Allegation #1, COPA recommends a finding of **Unfounded**. It is uncontested that on January 31, 2016, Officer A stopped Subject 1 and placed him in handcuffs. It is also uncontested that Subject 1 was not arrested, but rather provided with an investigatory stop receipt. When conducting an investigatory stop, an officer's actions are guided by Chicago Police Department Special Order S04-13-09, "Investigatory Stop System." Under this directive, the legal authority for conducting an investigatory stop is established as follows:

"Temporary questioning without arrest. A peace officer, after having identified himself as a peace officer, may stop any person in a public place for a reasonable period of time when the officer reasonably infers from the circumstances that the person is committing, is about to commit or has committed an offense as defined in Section 102-15 of this Code, and may demand the name and address of the person and an explanation of their actions. Such detention and temporary questioning will be conducted in the vicinity of where the person was stopped."¹³

The directive goes on to emphasize that an investigatory stop does not require consent of the detained individual. Specifically, it is noted that:

"[a]n Investigatory Stop is not a voluntary contact. A voluntary contact is a consensual encounter between an officer and a person during which the person must feel free to leave the officer's presence. An officer may approach any person at any time for any reason on any basis. However, absent reasonable suspicion or probable cause, that person must be able to walk away at any time. An officer's ability to articulate that no factors existed that would make a reasonable person perceive they were not free to leave is important."¹⁴

The basis for this CPD Special Order derives from the seminal 1968 United States Supreme Court case *Terry v. Ohio*, allowing officers to conduct street stops based on reasonable articulable suspicion. Within the scope of *Terry*, an officer who observes conduct

"which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently

¹² Based on the documents produced during the course of this investigation, which articulate a clear basis for the stop of Subject 1, the complainant's admissions during his interview, and the duration of time since the incident occurred, COPA determined that conducting interviews of involved officers would not be necessary to reach findings.

¹³ S04-13-09(IV) (Effective 01 January 2016-22 March 2016), citing to 725 ILCS 5/107-14.

¹⁴ S04-13-09(II) (Effective 01 January 2016-22 March 2016)

dangerous, where, in the course of investigating this behavior, he identifies himself as a policeman and makes reasonable inquiries, and where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his own or others' safety, he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him." (*Terry v. Ohio* 392 U.S. 1 at 30 (1968)).

In the case at hand, Officer A received a radio communication of a battery in progress near XXXX South Independence. A description of the suspected individuals was provided to OEMC by a 911 caller, which was then directed to Officer A. According to the caller, an African-American male in a tan jacket was "jumping on" an African American female wearing black. Upon arrival at the 1200 block of South Independence, Officer A observed two African American individuals, one a male dressed in tan, the other a female dressed in black. The male also appeared to be escorting the female by force. Considering the radio dispatch he had just received, Officer A pulled over and inquired whether the two individuals were okay. Although the male, Subject 1, stated they were fine, Subject 1 appeared to be preventing the female from responding. Officer A then approached Subject 1, at which time Subject 1 appeared to hide something in his pocket. In his interview, Subject 1 acknowledges that he turned away from the responding officers.

Concerned for the safety of the female individual, Officer A placed Subject 1 in handcuffs, then separated Subject 1 from the female. When Subject 1 inquired as to why he was being detained, Officer A informed Subject 1 that there was a call about "someone beatin' on a female." Although the female, Civilian 1, acknowledged that Subject 1 had been physical with her, she declined to press charges against Subject 1. While stopped, Subject 1 and Civilian 1 indicated that they had been "getting high on PCP." Due to Civilian 1's state of inebriation, Civilian 1 requested paramedic support, which Officer A ordered. Based on OEMC records, EMS was requested within ten minutes of Officer A's dispatch to XXXX South Independence. A name check of Subject 1 was run within 15 minutes of Officer A's dispatch, and Officer A was recorded as "cleared" from the scene within a half hour of the initial dispatch. This comports with Subject 1's statement that the entire interaction lasted approximately 30 minutes.

Under such circumstances, it is evident that Officer A's actions comported with the Investigatory Stop System directive. In observing two individuals matching the description provided by the 911 caller, located in the area indicated by the 911 caller, Officer A would have had a reasonable articulable suspicion to conduct an investigatory stop. Given that the 911 call involved suspicion of a violent crime, paired with Subject 1's apparent evasive actions, Officer A placed Subject 1 in handcuffs during the course of the 30 minute detention. It must be emphasized that while an officer conducts his investigation, the subject of an investigatory stop is not permitted to leave the scene during a stop. Consequently, the utilization of handcuffs for purposes of maintaining scene safety would not have impeded upon Subject 1's freedom of movement, as he was not free to leave the scene.

The directive also mandates that an investigatory stop cannot exceed a reasonable amount of time. Within a half hour of being detained, Subject 1 was allowed to go on his way. Again, considering the nature of the crime that Subject 1 was suspected to have committed, the fact that paramedic support was brought to scene, and Subject 1's lack of cooperation with responding officers, a thirty minute investigatory stop would not appear to exceed the scope of reason. With

such valid basis for temporarily stopping and handcuffing Subject 1, Allegation #1 against Officer A must be **Unfounded**.

Allegation #2: **It is alleged that on January 31, 2016, at approximately 4:30 P.M., in the vicinity of XXXX South Independence, Officer A pushed up on Subject 1's handcuffs.**

With regard to Allegation #2, COPA recommends a finding of **Exonerated**. It is uncontested that while Subject 1 remained in handcuffs, Subject 1 attempted to move around, so as to look over his shoulder. During this time, Officer A is alleged to have lifted Subject 1's handcuffs, instructing Subject 1 to "just be cool." An officer's use of force is guided by General Order G03-02, "Use of Force Guidelines." Under this directive, it is required that "department members will use an amount of force reasonably necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury." The directive goes on to state that "as set forth by the United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), the central inquiry in every use of force is whether the amount of force used by the officer was objectively reasonable in light of the particular circumstances faced by the officer."

In an effort to "provide guidance on the reasonableness of a particular response option," the Use of Force Guidelines directive is supplemented by G03-02-01, "The Use of Force Model." Under the Use of Force Model, an officer is permitted to apply "the use of force [...] to ensure control of a subject with the reasonable force necessary based on the totality of the circumstances." Importantly, the directive requires officers to "modify their level of force in relation to the amount of resistance offered by the subject." In situations involving subjects that are defined as passive or active resisters, the Use of Force Model permits an officer to engage in holding tactics, including pain compliance.

In this situation, Subject 1 alleges that Officer A pushed up on his handcuffs, which caused Subject 1 to experience some pain. Yet in his own statement to IPRA, Subject 1 states that he turned away from responding officers, then continually attempted to turn around once in handcuffs. Based on the Use of Force Model, there is no indication that Subject 1 was acting as a cooperative subject, but rather as a resister. Such resistive actions from Subject 1 would permit Officer A to employ control holding tactics. Moreover, from the evidence at hand, the degree of force that Subject 1 was subjected to is highly dubious. At the time of arrest, Subject 1 admitted to being "high on PCP," suggesting that Subject 1's recollection of the incident may have been distorted. While Subject 1 did go to Hospital A to complain of wrist pain, medical records show no sign of significant wrist injury. Contemporaneous photography of Subject 1's alleged injuries do show markings that could have come from handcuffing, but no bruising, scabbing, or bleeding is visible on Subject 1's wrists.

It should be emphasized that handcuffs are meant to act as a mode of restraint, and must be sufficiently tight so as to accomplish this goal. When properly tightened, handcuffs will rub against the skin of the wrist, which may cause redness on the subject's skin. In want of evidence to suggest that Subject 1 was subjected to force exceeding that which Officer A was permitted to employ, Allegation #2 against Officer A must be **Exonerated**.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer A	1. It is alleged that on January 31, 2016, at approximately 4:30 P.M., in the vicinity of XXXX South Independence, Officer A grabbed Subject 1 without justification and handcuffed him, in violation of Rule 2 and Rule 6; and,	2. Unfounded
	1. It is alleged that on January 31, 2016, at approximately 4:30 P.M., in the vicinity of XXXX South Independence, Officer A pushed up on Subject 1's handcuffs, in violation of Rule 8.	2. Exonerated

Approved:

Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	XXXXX
Investigator:	XXXXX
Supervising Investigator:	XXXXX
Deputy Chief Administrator:	XXXXX